IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 14397 of 1993

Between:

1 Baindla Yellaiah S/o.Bheemaiah
R/o.Kulakacherla Village & mandal Rangareddy District
2 Kommu Chennaiah S/o.Balappa
R/o.Kulakacherla Village & mandal Rangareddy District
3 Mahadev Prasad S/o.Lakshmi Prasad
R/o.Kulakacherla Village & mandal Rangareddy District

..... PETITIONERS

AND

1 The Superintendent Engineer Irrigation Circle,
Red Hills, Hyderabad
2 The Executive Engineer B.R.C.D.Irrigation Division
Rangareddy Dist., Red Hills, Hyderabad
3 The Assistant Engineer Irrigation, Pargi Rangareddy Dist
4 Revenue Divisional Officer, Chevella, Domalguda, Hyderabad
5 Sri Ghangapur Balreddy
R/o.Ghanapur, Kulkacherla Mandal Rangareddy District
6 K.Sayanna
Resp.No.6 to 20 are impleaded as per court order
dt.14/7/94 in WPMP.7648/1994
7 M.Bichaiah
Resp.No.6 to 20 are impleaded as per court order
dt.14/7/94 in WPMP.7648/1994
8 M.Laxmaiah
Resp.No.6 to 20 are impleaded as per court order
dt.14/7/94 in WPMP.7648/1994
9 K.Venkataiah
Resp.No.6 to 20 are impleaded as per court order
dt.14/7/94 in WPMP.7648/1994

10 B.Buddaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
11 B.Balaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
12 K.Balaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
13 K.Laxmaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
14 C.Bhimaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
15 C.Pentaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
16 C.Sayanna
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
17 C.Chinnamma
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
18 L.Venkaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
19 J.Kistaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994
20 J.Anjilaiah
Resp.No.6 to 20 are impleaded as per court order dt.14/7/94 in WPMP.7648/1994

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or mandamus under Article 226 of the Constitution of India declaring the action of the respondents in constructing cross bund at spill water course of Mailamma Cheruvu at S.No.573 at Kulakacherla village is highly arbitrary, illegal and unauthorised and pass such other order.

Counsel for the Petitioner:MR.K.VIJAYA RAO, Advocate

Counsel for Respondent No.1 to 4: G.P. for irrigation.

Counsel for Respondents 5 to 20: Mr. Jagan, Advocate

The Court made the following : ORDER

THE HONOURABLE SRI JUSTICE

R. SUBHASH REDDY

WRIT PETITION NO. 14397 OF 1993

ORDER:

This Writ Petition is filed to declare the action of the respondents in constructing cross-bund to the spill watercourse of Mailamma cheruvu at Sy.No. 573 in Kulakacherla village as illegal and arbitrary.

The petitioners claim to be the Ayacutdars of Mailamma cheruvu, situated in Kulakacherla village & mandal, Ranga Reddy District. It is the case of the petitioners that due to accumulation of silt in the tank, the water is overflowing through spill way, and, instead to take up repair works for removal of the silt, the respondents are constructing cross bund to divert the water which overflows through spill way. It is their further case that the proposed construction of cross-bund will irrigate only 40 acres of land, whereas, if reclamation and repair works are carried out, the land to the extent of 1000 acres will be irrigated. It is stated that if the water overflowing through spill way is diverted, the registered ayacutdars under the said water channel will be deprived of water to their fields.

In the counter affidavit filed on behalf of the respondents, it is stated that the registered ayacut under Mailamma cheruvu is 522.39 acres, but not 1000 acres as stated by the petitioners. It is stated that without affecting the registered ayacut, steps are being taken to construct the cross bund, only with a view to benefit the tail end ayacut by utilizing the regenerated water disposed through weir.

It is to be seen, in the counter affidavit it is clearly stated that the proposed construction of the bund will not affect the lands which are registered as ayacut under the tank in question and, more over, the said construction will further benefit the weaker sections of the society having their lands at the tail end ayacut. In that view of the matter, the petitioners cannot plead that the proposed construction will deprive the registered ayacut under the said water channel and to irrigate their lands. Inasmuch as it is stated that the said construction is only to benefit the weaker

sections of the society having their lands in the tail end ayacut, it cannot be said that the said construction per se illegal and in violation of the provisions of the A.P. Irrigation (Construction & Maintenance of water course) Act 1965.

The Writ Petition is devoid of merits and accordingly dismissed. No order as to costs.

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17th January, 2005.

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Msnr.

To

1.The Superintendent Engineer Irrigation Circle,
Red Hills, Hyderabad
2 The Executive Engineer B.R.C.D.Irrigation Division
Rangareddy Dist., Red Hills, Hyderabad
3 The Assistant Engineer Irrigation, Pargi Rangareddy Dist
4 Revenue Divisional Officer, Chevella, Domalguda, Hyderabad

5. Two ccs to Govt. Pleader for Irrigation, High Court of AP, Hyderabad(OUT)

6. Two CD copies.